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OFFICE OF PETITIONS

**In re Application of
ARAUIO et al.
Application No. 10/616,431
Filed: July 9, 2003
Attorney Docket No. 9182**

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Election of Species Requirement mailed September 22, 2004 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 23, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of the filing of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the filing of the continuing application is accepted as having been unintentionally delayed.


It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The above-identified application is being construed as being revived solely for purposes of continuity and as a request to expressly abandon the application upon revival. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of the continuation application U.S. Serial No. 11/174,399. Petitioner must notify the Office if this is **not** a correct interpretation.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Files Repository.


Frances Hicks
Petitions Examiner
Office of Petitions

cc: RALPH E. LOCHER
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